

1 KATIE TOWNSEND (SBN 254321)
2 ktownsend@rcfp.org
3 Counsel of Record for Amici Curiae
4 BRUCE D. BROWN*
5 bbrown@rcfp.org
6 CAITLIN VOGUS*
7 cvogus@rcfp.org
8 SELINA MACLAREN*
9 smaclaren@rcfp.org
10 *Of Counsel

11 THE REPORTERS COMMITTEE FOR
12 FREEDOM OF THE PRESS
13 1156 15th Street NW, Suite 1250
14 Washington, D.C. 20005
15 Telephone: (202) 795-9300
16 Facsimile: (202) 795-9310

17 UNITED STATES DISTRICT COURT
18 CENTRAL DISTRICT OF CALIFORNIA
19 SOUTHERN DIVISION

20 **COURTHOUSE NEWS**
21 **SERVICE,**

22 Plaintiff,

23 v.

24 **DAVID YAMASAKI, IN HIS**
25 **OFFICIAL CAPACITY AS COURT**
26 **EXECUTIVE OFFICER/CLERK**
27 **OF THE ORANGE COUNTY**
28 **SUPERIOR COURT,**

Defendant.

Case No.: 8:17-CV-126 AG (KESx)

**APPLICATION OF THE
REPORTERS COMMITTEE FOR
FREEDOM OF THE PRESS AND 13
OTHER MEDIA ORGANIZATIONS
FOR LEAVE TO FILE BRIEF AS
AMICI CURIAE IN SUPPORT OF
PLAINTIFF**

[[Proposed] *Amici* Brief Filed
Concurrently Herewith]

Courtroom: 10D
Judge: Hon. Andrew J. Guilford

**APPLICATION OF THE REPORTERS COMMITTEE FOR FREEDOM OF THE PRESS
AND 13 OTHER MEDIA ORGANIZATIONS FOR LEAVE TO FILE BRIEF AS AMICI
CURIAE IN SUPPORT OF PLAINTIFF**

1 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

2 **PLEASE TAKE NOTICE THAT** proposed *amici curiae*, the Reporters
 3 Committee for Freedom of the Press (the “Reporters Committee”) and 13 other
 4 news media organizations, request permission to file the concurrently submitted
 5 proposed *amici curiae* brief in support of Plaintiff Courthouse News Service
 6 (hereinafter, “CNS”). The other organizations are: American Society of News
 7 Editors, The Associated Press, Association of Alternative Newsmedia, Californians
 8 Aware, First Amendment Coalition, Gannett Co., Inc., Los Angeles Times
 9 Communications LLC, The McClatchy Company, MediaNews Group Inc., dba
 10 Digital First Media, LLC, News Media Alliance, Online News Association, Radio
 11 Television Digital News Association, and Society of Professional Journalists.

12 District courts have broad discretion to permit third parties to participate in
 13 an action as *amicus curiae*. See *Ctr. for Biological Diversity v. U.S. Bureau of*
 14 *Land Mgmt.*, No. 3:09-CV-08011-PGR, 2010 WL 1452863, at *2 (C.D. Ariz. Apr.
 15 12, 2010) (citing *Hoptowit v. Ray*, 682 F.2d 1237, 1260 (9th Cir. 1982)). This
 16 Court has previously granted applications of third parties to participate as *amicus*
 17 *curiae* in this case. See Civil Minutes – General, [Tentative] Order Denying
 18 Motion for a Preliminary Injunction (Mar. 20, 2017) (granting leave to file an *amici*
 19 brief in support of Defendant). Some of the proposed *amici*, including the
 20 Reporters Committee, have previously participated as *amici* in cases in this district
 21 that raised similar legal issues. See *Courthouse News Serv. v. Planet*, No. 2:11-cv-
 22 08083-SJO (FFMX), 2016 WL 4157210, at *1 (C.D. Cal. May 26, 2016) (listing
 23 thirteen *amici*, including seven of the proposed *amici* here), *judgment entered*, 2016
 24 WL 4157354 (C.D. Cal. June 14, 2016).

25 *Amici curiae* can “provide assistance in a case of general interest, supplement
 26 the efforts of counsel in the case, and draw the court’s attention to legal arguments
 27 that have escaped consideration.” *Ctr. for Biological Diversity*, 2010 WL 1452863,
 28 at *2. Courts “frequently welcome” *amici* when a case concerns “legal issues that

1 have potential ramifications” for non-parties, *Sonoma Falls Developers, LLC v.*
 2 *Nevada Gold & Casinos, Inc.*, 272 F. Supp. 2d 919, 925 (N.D. Cal. 2003), or when
 3 *amici* have “unique information or perspective that can help the court beyond the
 4 help that the lawyers for the parties are able to provide,” *Bostick v. Herbalife Int’l*
 5 *of Am., Inc.*, No. 2:13-cv-02488-BRO (SHX), 2015 WL 12731932, at *11 (C.D.
 6 Cal. May 14, 2015) (emphasis removed) (quoting *Ryan v. Commodity Futures*
 7 *Trading Comm’n*, 125 F.3d 1062, 1063 (7th Cir. 1997)), *reconsideration denied*,
 8 2015 WL 12745798 (C.D. Cal. Aug. 18, 2015); *see also Am. Trucking Ass’n, Inc.*
 9 *v. City of Los Angeles*, No. 2:08-cv-04920-CAS (CTX), 2008 WL 4381644, at *2
 10 (C.D. Cal. Sept. 4, 2008) (granting leave to participate as *amicus* even where
 11 defendants did not have time to reply to the *amicus* brief because “the brief’s
 12 probative value” outweighed any timeliness issues). In particular, *amicus* briefs can
 13 assist courts in deciding whether to enjoin conduct that is alleged to violate the First
 14 Amendment. *See, e.g., IMDb.com, Inc. v. Becerra*, No. 3:16-cv-06535-VC, 2017
 15 WL 772346, at *2 (N.D. Cal. Feb. 22, 2017) (granting motion for preliminary
 16 injunction after granting leave to third parties to participate as *amici curiae*); *Nat’l*
 17 *Abortion Fed’n v. Ctr. for Med. Progress*, No. 3:15-cv-03522-WHO, 2016 WL
 18 454082, at *13 (N.D. Cal. Feb. 5, 2016) (same). And courts also accept *amicus*
 19 briefs where, as here, a case raises legal issues affecting the press. *See In Re Grand*
 20 *Jury Subpoenas*, 438 F. Supp. 2d 1111, 1112 (N.D. Cal. 2006) (considering *amicus*
 21 briefs in denying a motion to quash subpoenas directed against reporters).

22 *Amici* submit the attached brief in response to the Court’s request for
 23 additional briefing, to aid the Court in resolving the issues before it concerning,
 24 *inter alia*, whether CNS’s for-profit status is relevant to the public’s First
 25 Amendment right of access to newly filed civil complaints. *Amici* write to
 26 emphasize the substantial public interest in immediate access to civil complaints
 27 and the implications for the public and the news media of denying such access, as
 28 well as the legal insignificance of a news organization’s for-profit status in

1 determining whether the public's First Amendment right of access to judicial
 2 records applies. As members of the news media, *amici* are uniquely qualified to
 3 provide the Court with this information.

4 CNS has consented to the filing of this Application. On April 5, 2017, *amici*
 5 informed counsel for Defendant Yamasaki of their intent to submit the proposed
 6 *amici* brief and sought the Defendant's consent to the relief sought by this
 7 Application. Defendant has not replied to the request for consent.

8 For the foregoing reasons, *amici* respectfully request that the Court permit
 9 the filing of the concurrently submitted proposed *amici curiae* brief.

10
 11 Dated: April 14, 2017

/s/ Katie Townsend

12 Katie Townsend (SBN 254321)

13 THE REPORTERS COMMITTEE

FOR FREEDOM OF THE PRESS

14 1156 15th St. NW, Ste. 1250

Washington, D.C. 20005

15 Telephone: (202) 795-9303

16 Email: ktownsend@rcfp.org

17 *Counsel of Record for Amici Curiae*

